

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1271 be amended to read as follows:

- 1 Page 2, between lines 3 and 4, begin a new paragraph and insert:
- 2 “SECTION 2. IC 5-10.3-7-2 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]:Sec. 2. The following employees may not
- 4 be members of the fund:
- 5 (1) Officials of a political subdivision elected by vote of the
- 6 people, unless the governing body specifically provides for the
- 7 participation of locally elected officials.
- 8 (2) Employees occupying positions normally requiring
- 9 performance of service of less than six hundred (600) hours
- 10 during a year who:
- 11 (A) were hired before July 1, 1982; or
- 12 (B) are employed by a participating school corporation.
- 13 (3) Independent contractors or officers or employees paid wholly
- 14 on a fee basis.
- 15 (4) Employees who occupy positions that are covered by other
- 16 pension or retirement funds or plans, maintained in whole or in
- 17 part by appropriations by the state or a political subdivision,
- 18 except:
- 19 (A) the federal Social Security program; and
- 20 (B) the prosecuting attorneys retirement fund created by
- 21 IC 33-14-9.
- 22 (5) Managers or employees of a license branch of the bureau of
- 23 motor vehicles commission, except those persons who ~~may be~~
- 24 **were** included as members under IC 9-16-4 **before July 1, 2004.**

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

(8) Members and employees of the state lottery commission.

SECTION 3. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic

1 device.

2 (4) In the case of electronically stored data, to manually
3 transcribe and make notes, abstracts, or memoranda or to
4 duplicate the data onto a disk, tape, drum, or any other medium
5 of electronic storage.

6 "Investigatory record" means information compiled in the course
7 of the investigation of a crime.

8 "Patient" has the meaning set out in IC 16-18-2-272(c).

9 "Person" means an individual, a corporation, a limited liability
10 company, a partnership, an unincorporated association, or a
11 governmental entity.

12 "Provider" has the meaning set out in IC 16-18-2-295(b) and
13 includes employees of the state department of health or local boards of
14 health who create patient records at the request of another provider or
15 who are social workers and create records concerning the family
16 background of children who may need assistance.

17 "Public agency" means the following:

18 (1) Any board, commission, department, division, bureau,
19 committee, agency, office, instrumentality, or authority, by
20 whatever name designated, exercising any part of the executive,
21 administrative, judicial, or legislative power of the state.

22 (2) Any:

23 (A) county, township, school corporation, city, or town, or
24 any board, commission, department, division, bureau,
25 committee, office, instrumentality, or authority of any
26 county, township, school corporation, city, or town;

27 (B) political subdivision (as defined by IC 36-1-2-13); or

28 (C) other entity, or any office thereof, by whatever name
29 designated, exercising in a limited geographical area the
30 executive, administrative, judicial, or legislative power of the
31 state or a delegated local governmental power.

32 (3) Any entity or office that is subject to:

33 (A) budget review by either the state board of tax
34 commissioners or the governing body of a county, city,
35 town, township, or school corporation; or

36 (B) an audit by the state board of accounts.

37 (4) Any building corporation of a political subdivision that issues
38 bonds for the purpose of constructing public facilities.

39 (5) Any advisory commission, committee, or body created by
40 statute, ordinance, or executive order to advise the governing
41 body of a public agency, except medical staffs or the committees
42 of any such staff.

43 (6) Any law enforcement agency, which means an agency or a
44 department of any level of government that engages in the
45 investigation, apprehension, arrest, or prosecution of alleged
46 criminal offenders, such as the state police department, the police
47 or sheriff's department of a political subdivision, prosecuting
48 attorneys, members of the excise police division of the alcoholic
49 beverage commission, conservation officers of the department of

1 natural resources, and the security division of the state lottery
2 commission.

3 (7) Any license branch ~~staffed by employees of the bureau of~~
4 ~~motor vehicles commission operated~~ under IC 9-16.

5 (8) The state lottery commission, including any department,
6 division, or office of the commission.

7 (9) The Indiana gaming commission established under IC 4-33,
8 including any department, division, or office of the commission.

9 (10) The Indiana horse racing commission established by
10 IC 4-31, including any department, division, or office of the
11 commission.

12 "Public record" means any writing, paper, report, study, map,
13 photograph, book, card, tape recording, or other material that is
14 created, received, retained, maintained, used, or filed by or with a public
15 agency and which is generated on paper, paper substitutes,
16 photographic media, chemically based media, magnetic or machine
17 readable media, electronically stored data, or any other material,
18 regardless of form or characteristics.

19 "Standard-sized documents" includes all documents that can be
20 mechanically reproduced (without mechanical reduction) on paper sized
21 eight and one-half (8 1/2) inches by eleven (11) inches or eight and
22 one-half (8 1/2) inches by fourteen (14) inches.

23 "Trade secret" has the meaning set forth in IC 24-2-3-2.

24 "Work product of an attorney" means information compiled by an
25 attorney in reasonable anticipation of litigation and includes the
26 attorney's:

27 (1) notes and statements taken during interviews of prospective
28 witnesses; and

29 (2) legal research or records, correspondence, reports, or
30 memoranda to the extent that each contains the attorney's
31 opinions, theories, or conclusions.

32 This definition does not restrict the application of any exception under
33 section 4 of this chapter."

34 Page 3, after line 42 , begin a new paragraph and insert:

35 "SECTION 6. IC 9-14-2-1 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The commissioner
37 shall do the following:

38 (1) Administer and enforce this title and other statutes concerning
39 the bureau.

40 (2) Administer and enforce the policies and procedures of the
41 commission.

42 (3) Organize the bureau in the manner necessary to carry out the
43 duties of the bureau.

44 (4) Submit to the commission, before September 1 of each year,
45 budget proposals for the bureau. ~~including license branches~~
46 ~~staffed by employees of the commission under IC 9-16.~~

47 (5) Perform other duties assigned by the commission.

48 SECTION 7. IC 9-14-2-3 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The

1 commissioner ~~may appoint~~ **shall approve** the individuals the
 2 commissioner considers necessary to examine applicants for permits or
 3 licenses under this title.

4 (b) An individual ~~appointed~~ **approved** by the commissioner under
 5 subsection (a) shall conduct examinations of applicants for permits or
 6 licenses under this title and shall submit a written report to the bureau
 7 after each examination. The written report must include examination
 8 findings and recommendations based upon those findings.

9 SECTION 8. IC 9-14-2-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The bureau shall
 11 **require its contractors to** provide notary public service for the
 12 convenience of members of the public when applying for a certificate
 13 of title, registration, or license.”

14 Page 4, after line 5 , begin a new paragraph and insert:

15 “SECTION 10. IC 9-15-2-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The commission shall
 17 do the following:

18 (1) Develop and continuously update the bureau's policies.

19 (2) Recommend to the governor legislation that is needed to
 20 implement the policies developed by the commission.

21 (3) Recommend to the bureau proposed rules that are needed to
 22 implement the policies developed by the commission and require
 23 those proposed rules to be adopted under IC 4-22-2.

24 (4) Review, revise, adopt, and submit to the budget agency
 25 budget proposals for the commission, the bureau, and the license
 26 branches operated under ~~IC 9-16, including the budget required~~
 27 ~~by IC 9-16-3-3, IC 9-16-1-4 and IC 9-16-1-4.5.~~

28 (5) ~~Establish the determination criteria and determine the number~~
 29 ~~and location of license branches to be operated under IC 9-16.~~
 30 ~~However, there must be at least one (1) full service license~~
 31 ~~branch in each county.~~

32 (6) ~~Establish and adopt minimum standards for the operation and~~
 33 ~~maintenance of each full service license branch operated under~~
 34 ~~IC 9-16.~~

35 (7) ~~Before January 1, 1997, establish and~~ Adopt minimum
 36 standards for the operation and maintenance of each ~~partial~~
 37 service contractor under IC 9-16. The standards must result in
 38 ~~more~~ convenience to the public by providing license branch
 39 services at as many walk-up locations as possible without
 40 increasing the costs of providing these services. **The standards**
 41 **must also guarantee safety to the public.**

42 (8) ~~Before March 1, 1997, (6)~~ Establish and adopt minimum
 43 standards for ~~providing~~ license branch services using telephonic,
 44 facsimile, electronic, ~~or and~~ computer means under IC 9-16.

45 (9) (7) Administer the state license branch fund established under
 46 IC 9-29-14.

47 SECTION 11. IC 9-15-2-2 IS AMENDED TO READ AS
 48 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The commission ~~may~~

1 **shall** do the following:

- 2 (1) Procure insurance against any loss in connection with the
- 3 commission's operations in the amount the commission considers
- 4 necessary or desirable.
- 5 (2) Contract for the operation of full service license branches
- 6 under IC 9-16-1-4 and partial services under IC 9-16-1-4.5.
- 7 (3) Take any other action necessary to achieve the commission's
- 8 purpose."

9 Page 5, after line 10 , begin a new paragraph and insert:

10 "SECTION 13. IC 9-15-4-1 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. IC 34-13-3 applies to
12 a claim or suit in tort against any of the following:

- 13 (1) A member of the commission.
- 14 (2) An employee of the commission. ~~who is employed at a~~
- 15 ~~license branch under IC 9-16-1-4; except for an employee employed~~
- 16 ~~at a license branch operated under a contract with the~~
- 17 ~~commission under IC 9-16-1-4.~~

18 SECTION 14. IC 9-16-1-1 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. As used in this
20 chapter, ~~"qualified person"~~ **"contractor"** means ~~any of the following:~~

- 21 ~~(1) A motor club that is any of the following:~~
- 22 ~~(A) A domestic corporation;~~
- 23 ~~(B) A foreign corporation qualified to transact business in~~
- 24 ~~Indiana under IC 23-1 or IC 23-17.~~
- 25 ~~(2) A financial institution (as defined in IC 28-1-1-3);~~
- 26 ~~(3) A new motor vehicle dealer licensed under IC 9-23-2.~~
- 27 ~~(4) Other persons, including persons licensed under IC 9-23-2~~
- 28 ~~that are not covered by subdivision (3); a person that:~~
- 29 ~~(1) the commission determines can meet the standards adopted~~
- 30 ~~by the commission under IC 9-15-2-1(7) and the requirements~~
- 31 ~~for partial service contractors under section 4.5 of this chapter;~~
- 32 ~~(2) is capable of performing the contracted services fully;~~
- 33 ~~(3) has integrity and reliability that will ensure~~
- 34 ~~performance; and~~
- 35 ~~(4) has submitted a bid or quotation in conformity with~~
- 36 ~~instructions, contract documents, terms, and other~~
- 37 ~~conditions for the contract.~~

38 SECTION 15. IC 9-16-1-2 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The commission shall
40 ~~operate or~~ be responsible for the administration of all license branches
41 in Indiana under this article.

42 SECTION 16. IC 9-16-1-3 IS AMENDED TO READ AS
43 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) License branches
44 have all the ~~powers and~~ duties assigned to license branches by statute
45 and by the commissioner.

46 (b) The commissioner shall ~~assign to enter into contracts with~~
47 ~~contractors to operate~~ license branches ~~those functions to provide~~
48 ~~services that:~~

(1) the commission or the bureau is legally required or authorized to perform; and

(2) cannot be adequately performed by the commission or the bureau without assistance from the license branches.

SECTION 17. IC 9-16-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The commission may contract with a qualified ~~person~~ **contractor** for:

(1) the operation of a full service license branch under this section; or

(2) ~~providing the provision of~~ partial services under section 4.5 of this chapter.

(b) A contract for the operation of a full service license branch must include the following provisions:

(1) The contractor shall provide a full service license branch, including the following services:

(A) Vehicle titles.

(B) Vehicle registration.

(C) Driver's licenses.

(D) Voter registration as provided in IC 3-7.

(2) The contractor shall provide trained personnel to properly process branch transactions.

(3) The contractor shall do the following:

(A) Collect and transmit all bureau fees, **service charges**, and taxes collected at the license branch.

(B) Deposit the taxes collected at the license branch with the county treasurer in the manner prescribed by IC 6-3.5 or IC 6-6-5.

(4) The contractor shall generate a transaction volume sufficient to justify the installation of bureau support systems.

(5) The contractor shall provide fidelity bond coverage in an amount prescribed by the commission.

(6) The contractor may operate the license branch within a facility used for other purposes.

(7) The contractor shall pay the cost of any post audits conducted by the commission or the state board of accounts on an actual cost basis.

~~(8) The commission shall provide support systems and driver's license examiners on the same basis as state operated branches.~~

~~(9) The commission shall provide the same equipment to contractors as is provided to state operated branches.~~

~~(10)~~ The commission must approve each location and physical facility based upon criteria developed by the commission.

~~(11)~~ (9) The term of the contract must be for a fixed period.

~~(12)~~ (10) The contractor shall agree to provide voter registration services and to perform the same duties imposed on the commission under IC 3-7.

SECTION 18. IC 9-16-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) The commission may contract with a ~~qualified person~~ **contractor** to provide

1 partial services at a qualified person's walk-up location, including
 2 locations within a facility used for other purposes, such as electronic
 3 titling and title application services and self-serve terminal access.

4 (b) A contract for providing motor vehicle registration and renewal
 5 services at a walk-up location must include the following provisions:

6 (1) The contractor must provide trained personnel to properly
 7 process motor vehicle registration and renewal transactions.

8 (2) The contractor shall do the following:

9 (A) Collect and transmit all bureau fees and taxes collected
 10 at the contract location.

11 (B) Deposit the taxes collected at the contract location with
 12 the county treasurer in the manner prescribed by IC 6-3.5
 13 or IC 6-6-5.

14 (3) The contractor shall provide fidelity bond coverage in an
 15 amount prescribed by the commission.

16 (4) The contractor shall pay the cost of any post audits
 17 conducted by the commission or the state board of accounts on
 18 an actual cost basis.

19 (5) The commission must approve each location and physical
 20 facility used by a contractor.

21 (6) The term of the contract must be for a fixed period.

22 SECTION 19. IC 9-16-1-6 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. A person who
 24 violates section 5 of this chapter commits a ~~Class C infraction~~. **Class**
 25 **D felony**.

26 SECTION 20. IC 9-16-2-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The value of all

28 ~~(1) purchases of supplies, fixtures, and equipment;~~

29 ~~(2) purchases of real property; and~~

30 ~~(3) lease agreements and contracts~~

31 shall be appraised by the Indiana department of administration or by an
 32 independent appraiser at the discretion of the Indiana department of
 33 administration. The cost of a ~~purchase, lease agreement, or~~ contract
 34 may not exceed the appraised value.

35 SECTION 21. IC 9-16-2-5 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~(a) Notwithstanding~~
 37 ~~IC 5-16, IC 5-17-1, and IC 5-22, the commission may develop a~~
 38 ~~system of procurement that applies only to procurement of equipment,~~
 39 ~~materials, and goods required for the operation of license branches.~~

40 ~~(b) A system of procurement adopted under this section must~~
 41 ~~provide that~~ Whenever:

42 (1) a contract is awarded by acceptance of bids, proposals, or
 43 quotations; and

44 (2) a trust (as defined in IC 30-4-1-1(a)) submits a bid, proposal,
 45 or quotation;

46 the bid, proposal, or quotation must identify each beneficiary of the
 47 trust and each settlor empowered to revoke or modify the trust.

48 ~~(c) This section does not apply to the purchasing, leasing, or~~
 49 ~~disposal of real property.~~

SECTION 22. IC 9-16-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Based on the ~~proposed budgets competitive bids~~ from ~~each of the license branches, branch contractors,~~ the commission shall develop a statewide license branch ~~budget, revenue projection.~~ If the commission determines that the total of:

(1) revenues from license branch operations; and
 (2) appropriations received by the commission;
 are insufficient, ~~to support license branch operations,~~ the commission shall increase the branch service charges under IC 9-29-3.

SECTION 23. IC 9-16-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. On or before September 1 of each even-numbered year, the commission shall submit to the budget agency a proposed budget. The commission shall include, at a minimum, the following information on a county by county basis:

- (1) Total estimated revenue by source.
- (2) ~~Total estimated expenditures for salaries and fringe benefits.~~
- ~~(3) Total estimated expenditures for other personal services.~~
- ~~(4) Total estimated expenditures for nonpersonal services.~~
- ~~(5) Total estimated expenditures for contractual services.~~
- ~~(6) Total estimated expenditures for supplies and materials.~~
- ~~(7) All other estimated expenditures.~~
- ~~(8) The number of full-time and part-time employees.~~
- ~~(9) Other information the budget agency requires.~~

SECTION 24. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who ~~are~~ **were** assigned to be managers and employees of commission license branches **before July 1, 2004**. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8.

SECTION 25. IC 9-16-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The commission, **through its license branch contractors,** shall offer voter registration services under this chapter in addition to providing a voter registration application as a part of an application for a motor vehicle driver's license, permit, or identification card under IC 9-24-2.5 and 42 U.S.C. 1973gg-3.

SECTION 26. IC 9-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The registration forms provided under section 3 of this chapter must be:

- (1) prescribed by the Indiana election commission to permit the NVRA official to fulfill the NVRA official's reporting duties under 42 U.S.C. 1973gg-7(a)(3) and IC 3-7-11-2; and
- (2) placed in an easily accessible location within the branch, so that members of the public may obtain the forms without further

1 assistance from the ~~commission~~ **branch contractors and**
 2 **employees of the contractors.**

3 SECTION 27. IC 9-29-3-19 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) Subject to
 5 subsection (b) and with the approval of the commission, the bureau
 6 may adopt rules under IC 4-22-2 to do the following:

7 (1) Increase or decrease any of the service charges listed in
 8 sections 1 through 18 of this chapter.

9 (2) Impose a service charge on any other license branch service
 10 that is not listed in sections 1 through 18 of this chapter.

11 (3) Increase or decrease a service charge imposed under
 12 subdivision (2).

13 (b) The bureau's authority to adopt rules under subsection (a) is
 14 subject to the condition that a service charge must be uniform
 15 throughout all license branches and at all partial service locations in
 16 Indiana.

17 **(c) The commission shall inform each contractor of the proper**
 18 **service charge for each license branch service.**

19 SECTION 28. IC 9-29-3-20 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. Notwithstanding any
 21 other law, each license branch operated under IC 9-16 shall collect the
 22 following:

23 (1) The service charges listed in sections 1 through 18 of this
 24 chapter, including any increases or decreases in those charges
 25 imposed by rule under section 19 of this chapter.

26 (2) Any new service charges imposed by rule under section 19
 27 of this chapter **when the commission informs the license**
 28 **branch of the new service charge."**

29 Page 5, after line 23 , begin a new paragraph and insert:

30 "SECTION 30. IC 9-29-14-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The fund consists of
 32 the following:

33 (1) Service charges **and fees** collected by license branches.

34 (2) Money received from any other source, including
 35 appropriations."

36 Page 5, after line 41 , begin a new paragraph and insert:

37 "SECTION 25. THE FOLLOWING ARE REPEALED
 38 [EFFECTIVE JULY 1, 1999]: IC 9-14-2-7; IC 9-16-2-2; IC 9-16-2-4;
 39 IC 9-16-3-1; IC 9-16-4-2."

40 Renumber all SECTIONS consecutively.

(Reference is to HB 1271 as printed January 30, 2004.)

